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REMARKS

The Office Action mailed December 19, 2005, has been received and reviewed. Claims 29-40 are currently pending in the application. Claims 29-40 stand rejected. Applicant proposes to amend no claims herein, and respectfully request reconsideration of the application in view of these remarks.

35 U.S.C. § 102(b) Anticipation Rejections**Anticipation Rejection Based on U.S. Patent No. 5,898,682 to Kanai**

Claims 29-40 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kanai (U.S. Patent No. 5,898,682). Applicant respectfully traverses this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant submits that the Kanai reference does not and cannot anticipate under 35 U.S.C. § 102 the presently claimed invention of independent claims 29, 33, 37, and claims 30-32, 34-36, 38-40 respectively depending therefrom, because the Kanai reference does not describe, either expressly or inherently, the identical inventions in as complete detail as are contained in the claims.

Claims 29-32

The Office Action alleges:

Regarding claim 29, Kanai discloses all the claimed invention as set forth [sic] in the instant application, further Kanai discloses a radio channel control apparatus used in a CDMA cellular system and capable of changing cell size. Additionally, Kanai discloses detecting and unbalanced quality of a power control signal received at a plurality of base station transceivers for a wireless device (which reads on column 2 lines 24-25); increasing a target signal-to-noise ratio (SNR) for the plurality of base station transceivers (which reads on column 9 lines 20-26); *increasing a pilot channel transmit power level* of the wireless device and, *decreasing a power gain of other channels in relation to the pilot channel* of the wireless device providing that the quality of the received power control signal [is] below a predefined target signal quality (which reads on column 2 lines 9-18). (Office Action, pp. 2-3; emphasis added.)

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Applicant respectfully disagrees that the Kanai reference anticipates Applicant's invention as claimed in independent claim 29 which reads:

29. A method, comprising:
detecting an unbalanced quality of a power control signal received at a plurality of base station transceivers from a wireless device;
increasing a target signal-to-noise ratio (SNR) for the plurality of base station transceivers;
increasing a pilot channel transmit power level of the wireless device;
and
decreasing a power gain of other channels in relation to the pilot channel of the wireless device providing that the quality of the received power control signal is below a predefined target signal quality. (Emphasis added.)

In contrast, a precise reading of the Kanai reference at the citation alleged in the Office Action discloses:

... the radio channel control apparatus comprising a quality monitoring means for monitoring the communication quality of at least one of the code-division multiplexed radio channels to produce a quality monitoring signal representative of the communication quality, and power level control means *for controlling a power level of the pilot signal in response to the quality monitoring signal to change the cell in size* from one to another in dependency upon the power level of the pilot signal. (Kanai, col. 2, lines 9-18; emphasis added.)

Clearly, the Kanai reference discloses adjusting the power level of the pilot signal in response to a signal quality measurement, however, nothing in the Kanai reference discloses adjusting power levels of channels in opposite directions, namely, *"increasing a pilot channel transmit power level* of the wireless device; and *decreasing a power gain of other channels in relation to the pilot channel"* as claimed by Applicant in presently presented independent claim 29. Additionally, the Kanai reference is drawn to adjusting the cell size by concurrently increasing or decreasing the power levels of all of the channels in a specific cell. A method for *"increasing a pilot channel transmit power level ... and decreasing a power gain of other channels in relation to the pilot channel"* as claimed by Applicant would be counter-productive in the Kanai reference.

Therefore, since the Kanai reference does not disclose *"increasing a pilot channel transmit power level* of the wireless device; and *decreasing a power gain of*

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other channels in relation to the pilot channel” as claimed by Applicant, the Kanai reference cannot anticipate under 35 U.S.C. § 102 Applicant’s invention as presently claimed. Accordingly, Applicant respectfully requests that rejection of independent claim 29 and claims 30-32 be withdrawn.

Claims 33-36

The Office Action alleges:

Regarding claim 33. Kanai discloses means for detecting an unbalanced quality of a power control of a power control signal received at a plurality of base station transceivers from a wireless device (which reads on column 2 lines 24-25), means increasing a target signal-to-noise ration (SNR) for the plurality of base station transceivers (which reads on column 9 lines 20-26); means for *increasing a pilot channel transmit power level* of the wireless device and, means for *decreasing a power gain of other channels in relation to the pilot channel* of the wireless device providing that the quality of the received power control signal [is] below a predefined target signal quality (which reads on column 2 lines 9-18). (Office Action, p. 3; emphasis added.)

Applicant respectfully disagrees that the Kanai reference anticipates Applicant’s invention as claimed in independent claim 33 which reads:

33. An apparatus, comprising:
means for detecting an unbalanced quality of a power control signal received at a plurality of base station transceivers from a wireless device;
means for increasing a target signal-to-noise ratio (SNR) for the plurality of base station transceivers;
means for increasing a pilot channel transmit power level of the wireless device; and
means for decreasing a power gain of other channels in relation to the pilot channel of the wireless device providing that the quality of the received power control signal is below a predefined target signal quality. (Emphasis added.)

Applicant sustains the above-proffered arguments, namely, that a precise reading of the Kanai reference at the citation alleged in the Office Action discloses:

... the radio channel control apparatus comprising a quality monitoring means for monitoring the communication quality of at least one of the code-division multiplexed radio channels to produce a quality monitoring signal representative of the communication quality, and power level control means *for controlling a power level of the pilot signal in response to the quality monitoring signal to change the cell in size* from one to another in dependency upon the

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power level of the pilot signal. (Kanai, col. 2, lines 9-18; emphasis added.)

Clearly, the Kanai reference discloses adjusting the power level of the pilot signal in response to a signal quality measurement, however, nothing in the Kanai reference discloses adjusting power levels of channels in opposite directions, namely, *"means for increasing a pilot channel transmit power level* of the wireless device; and *means for decreasing a power gain of other channels in relation to the pilot channel"* as claimed by Applicant in presently presented independent claim 33. Additionally, the Kanai reference is drawn to adjusting the cell size by concurrently increasing or decreasing the power levels of all of the channels in a specific cell. An apparatus including a *"a means for increasing a pilot channel transmit power level ... and means for decreasing a power gain of other channels in relation to the pilot channel"* as claimed by Applicant would be counter-productive in the Kanai reference.

Therefore, since the Kanai reference does not disclose *"means for increasing a pilot channel transmit power level* of the wireless device; and *means for decreasing a power gain of other channels in relation to the pilot channel"* as claimed by Applicant, the Kanai reference cannot anticipate under 35 U.S.C. § 102 Applicant's invention as presently claimed. Accordingly, Applicant respectfully requests that rejection of independent claim 33 and claims 34-36 be withdrawn.

Claims 37-40

The Office Action alleges:

Regarding claim 37. Kanai discloses the wireless device is in soft handoff (which reads on column 1 lines 53-55). (Office Action, p. 4.)

Applicant respectfully disagrees that the Kanai reference anticipates Applicant's invention as claimed in independent claim 37 which reads:

37. A computer readable media embodying a method, comprising:
detecting an unbalanced quality of a power control signal received at a plurality of base station transceivers from a wireless device;
increasing a target signal-to-noise ratio (SNR) for the plurality of base station transceivers;
increasing a pilot channel transmit power level of the wireless device;
and
decreasing a power gain of other channels in relation to the pilot channel of the wireless device providing that the quality of the

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received power control signal is below a predefined target signal quality. (Emphasis added.)

Applicant sustains the above-proffered arguments, namely, that a precise reading of the Kanai reference at the citation alleged in the Office Action discloses:

... the radio channel control apparatus comprising a quality monitoring means for monitoring the communication quality of at least one of the code-division multiplexed radio channels to produce a quality monitoring signal representative of the communication quality, and power level control means *for controlling a power level of the pilot signal in response to the quality monitoring signal to change the cell in size* from one to another in dependency upon the power level of the pilot signal. (Kanai, col. 2, lines 9-18; emphasis added.)

Clearly, the Kanai reference discloses adjusting the power level of the pilot signal in response to a signal quality measurement, however, nothing in the Kanai reference discloses adjusting power levels of channels in opposite directions, namely, *"increasing a pilot channel transmit power level* of the wireless device; and *decreasing a power gain of other channels in relation to the pilot channel"* as claimed by Applicant in presently presented independent claim 37. Additionally, the Kanai reference is drawn to adjusting the cell size by concurrently increasing or decreasing the power levels of all of the channels in a specific cell. A computer readable media embodying a method for *"increasing a pilot channel transmit power level ... and decreasing a power gain of other channels in relation to the pilot channel"* as claimed by Applicant would be counter-productive in the Kanai reference.

Therefore, since the Kanai reference does not disclose *"increasing a pilot channel transmit power level* of the wireless device; and *decreasing a power gain of other channels in relation to the pilot channel"* as claimed by Applicant, the Kanai reference cannot anticipate under 35 U.S.C. § 102 Applicant's invention as presently claimed. Accordingly, Applicant respectfully requests that rejection of independent claim 37 and claims 38-40 be withdrawn.

PATENT**35 U.S.C. § 103(a) Obviousness Rejections****Obviousness Rejection Based on U.S. Patent No. 6,832,261 to Westbrook et al.**

Claims 2-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Westbrook et al. (U.S. Patent No. 6,832,261) in view of Brown et al. (U.S. Patent No. 6,434,147). Applicants respectfully traverse this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

The nonobviousness of independent claim 1 precludes a rejection of claims 2-10 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), see also MPEP § 2143.03. Therefore, the Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejections to dependent claims 2-10 depending from nonobvious independent claim 1.

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REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: June 13, 2006

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